

Agenda

Item #5



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

November 27, 2007

Audit Report No. 2006-HR048

**Candidate: Pamela H. Hatch
House District 85**

Background

Pamela H. Hatch was a candidate for the Maine House of Representatives, District 85, in the 2006 general election. The Commission on Governmental Ethics and Election Practices (Commission) certified Ms. Hatch as a Maine Clean Election Act (MCEA) candidate on April 21, 2006. MCEA candidates are required under the Act to submit reports of their receipts, expenditures, outstanding campaign debt, and equipment purchases and dispositions for specified periods during the election cycle.

Audit Scope

Examination of selected candidate contribution and expenditure transactions occurring during the following campaign reporting periods:

- Seed Money
- Six Day Pre-Primary
- 42 Day Post-Primary
- Six Day Pre-General
- 42 Day Post-General

Transactions subject to review were those recorded in the candidate's accounting records and reported to the Commission. The audit's purpose was to determine if the identified receipts and payments (1) were properly approved by the candidate or her authorized representative; (2) were adequately documented as evidenced by original vendor invoices and cancelled checks or other acceptable disbursement documentation; and (3) complied in all material respects with the requirements of the Maine Clean Election Act and the Commission's rules.

Audit Findings and Recommendations

Finding No. 1 – Undocumented Seed Money Expenditures: The Pamela Hatch campaign reported \$200 in seed money contributions and \$199.65 in seed money expenditures made during the qualifying period. The contributions were not deposited in the campaign bank account. The audit disclosed that none of the seed money expenditures was substantiated with a receipt, invoice, cancelled check, or other form of documentation. (See Exhibit I) This documentation is important for verifying what goods and services were purchased and that the vendor received payment. According to the candidate, the contributions were made in

cash and the expenditures were paid for in cash. It is the Commission's practice to offset the initial distribution of MCEA funds by the amount of unspent seed money. In this case, the Commission deducted the cash balance of \$.35 in the seed money report from the first payment of MCEA funds paid to the candidate. Accordingly, in the absence of bank account statements and seed money expenditure documentation, the auditor is unable to verify that the amounts of the reported contributions and expenditures are accurate and the first payment of MCEA funds to the candidate was in the correct amount.

Criteria: 21-A M.R.S.A. § 1125(12-A)(A), "The treasurer shall obtain and keep...[b]ank or other account statements for the campaign account covering the duration of the campaign. 21-A M.R.S.A. § 1125(12-A)(B), "The treasurer shall obtain and keep...[a] vendor invoice stating the particular goods or services purchased for every expenditure of \$50 or more...." 21-A M.R.S.A. § 1125(12-A)(C), "The treasurer shall obtain and keep...[a] record proving that a vendor received payment for every expenditure of \$50 or more in the form of a cancelled check, receipt from the vendor or bank or credit card statement identifying the vendor as the payee." Commission Rules, Chapter 3, Section 3(3), "...the Commission will deduct from the initial distribution from the Fund to a certified candidate an amount equal to the amount of unspent seed money reported by that candidate."

Recommendations: The Commission staff recommends that the Commission find the candidate in violation of 21-A M.R.S.A. § 1125(12-A)(A), (B) and (C), and consider assessing the candidate and her treasurer a penalty of \$100.

Finding No. 2 – Undocumented Maine Clean Election Act Expenditures: The Pamela Hatch campaign reported four expenditures totaling \$1,879.98 that were completely undocumented (see Exhibit I). The candidate claims all four expenditures – two to the Postmaster and two to Staples – were made in cash. In the absence of any supporting documentation for the postal and Staples expenditures, the auditor questions whether the reported transactions were legitimate campaign expenses or in fact were actually made.

Criteria: 21-A M.R.S.A. § 1125(12-A)(B), "The treasurer shall obtain and keep...[a] vendor invoice stating the particular goods or services purchased for every expenditure of \$50 or more...." 21-A M.R.S.A. § 1125(12-A)(C), "The treasurer shall obtain and keep...[a] record proving that a vendor received payment for every expenditure of \$50 or more in the form of a cancelled check, receipt from the vendor or bank or credit card statement identifying the vendor as the payee." 21-A M.R.S.A. § 1127(1), "a person who violates any provision of this chapter or rules of the commission ... is subject to a fine not to exceed \$10,000 per violation payable to the fund."

Recommendations: The Commission staff recommends that the Commission find the candidate in violation of 21-A M.R.S.A. § 1125 (12-A) (B) and (C). The staff also recommends that the Commission consider the following alternatives for addressing the violation:

- a. If the Commission determines that the \$1,879.98 in undocumented expenditures was not made by the candidate for the purposes of her campaign, then the staff recommends that the Commission direct Ms. Hatch to return the full amount to the Maine Clean Election Fund. In this instance, the Commission should also consider imposing a significant penalty for false reporting and mis-use of public funds.
- b. If, on the other hand, the Commission concludes that the questioned expenditures listed in the exhibit were legitimately made by the candidate, then the staff recommends that the Commission assess the candidate with a penalty of \$500.

The actual mechanics of the alternate payment processes are discussed below under Finding No. 5 which concerns the campaign's questioned bank balances.

Finding No. 3 – Undocumented Maine Clean Election Act Payment: The Pamela Hatch campaign reported an expenditure for postage on 5/29/2006 in the amount of \$78.00. The campaign records included a postal receipt in that amount, but there was no disbursement on record from the campaign bank account. The auditor was therefore unable to determine that the expenditure was made for a campaign purpose. The candidate informed the auditor that she paid the expenditure in cash, but there was no record of reimbursement to the candidate on file.

Criterion: 21-A M.R.S.A. § 1125(12-A)(C), "The treasurer shall obtain and keep...[a] record proving that a vendor received payment for every expenditure of \$50 or more in the form of a cancelled check, receipt from the vendor or bank or credit card statement identifying the vendor as the payee."

Recommendations: The Commission staff recommends that the Commission find Ms. Hatch in violation of 21-A M.R.S.A. § 1125 (12-A) (C). The staff also recommends that the Commission consider the following alternatives for addressing the violation:

- c. If the Commission determines that the \$78.00 reported expenditure was not made by the candidate for the purposes of her campaign, then the staff recommends that the Commission direct Ms. Hatch to return the full amount to the Maine Clean Election Fund. In this instance, the commission should also consider imposing a significant penalty for false reporting and mis-use of public funds.
- d. If, on the other hand, the Commission concludes that the questioned expenditure listed in Exhibit I was legitimately made by the candidate, the staff recommends no additional action other than the finding of violation 21-A M.R.S.A. § 1125 (12-A) (C).

The actual mechanics of the alternate payment processes are discussed below under Finding No. 5 which concerns the campaign's questioned bank balances.

Finding No. 4 – Commingling of Funds: Pamela Hatch used an existing bank account at the Taconnet Federal Credit Union as her campaign account. The account balance at the beginning of April, 2006 was \$98.16. Ms. Hatch withdrew \$50.00 from this account on April 6, 2006. She also purchased checks for the campaign from these non-MCEA funds in April. On April 30, 2006, the balance of non-MCEA funds in the account was \$35.91. Subsequently, on May 8, 2006, the Commission deposited \$511.65 in the account and at that point commingling occurred. Moreover, the original amount of non-MCEA funds was never withdrawn or reimbursed to or by the campaign.

Criteria: 21-A M.R.S.A. § 1016(1), "All funds of a political committee and campaign funds of a candidate must be segregated from, and may not be commingled with, any personal funds of the candidate, treasurer or other officers, members or associates of the committee." 21-A M.R.S.A. § 1125(7-A), "The campaign funds must be segregated from, and may not be commingled with, any other funds."

Recommendations: The Commission staff believes the candidate violated the cited provisions by commingling MCEA funds with some personal funds. However, we have found this to be a common error among candidates who deposit the minimum required amount by the bank to open or maintain an account with non-MCEA funds, and once they receive their MCEA distribution from the Commission, they forget to reimburse themselves for the original deposit amount. Normally, the staff does not recommend penalizing candidates in this situation. Accordingly, we recommend a finding of technical violation of 21-A M.R.S.A. § 1125(7-A) but with no penalty assessment.

Finding No. 5 – Unexplained Excess Balance in the Campaign Bank Account: The Pamela Hatch campaign reported an ending balance of \$113.75 in their 42 Day Post-General campaign finance report. This amount was repaid to the Maine Clean Election Fund. The audit disclosed however, that the balance in the campaign bank account after all reported campaign transactions had been accounted for was \$4,461.21. The auditor concluded that the following adjustments were in order:

TRANSACTION	DATE	AMOUNT
Campaign Bank Balance	12/31/2006	\$4,461.21
Less:		
Unreimbursed Travel	11/14/2006	\$ 92.52
Non-MCEA Funds in the Account	4/18/2006	\$ 35.91
Unreimbursed "Copy Center"		
Invoice Originally Mis-reported on 42SPG	10/31/2006	\$ 1,936.25
Adjusted Bank Balance		\$ 2,396.53

After accounting for unreported, mis-reported, and unreimbursed campaign expenses, an unsupported balance of \$2,396.53 of MCEA funds remains. The candidate and her treasurer provided a reconciliation on October 22, 2007 that purported to reconcile the ending balance in the bank account with the campaign's reported expenditures. Although the transactions

listed agreed within \$.35 (\$4,461.21 per the bank compared to \$4,461.56 per the candidate), \$2,396.88 of the listed items remain undocumented and are questioned by the auditor. The candidate is claiming that the \$2,396.88 in expenditures was for legitimate campaign-related purchases that she made out of her personal funds and she deserves to use her remaining campaign funds to reimburse herself for these purchases. Exhibit II sets forth the details of the reconciliation.

Criterion: 21-A M.R.S.A. § 1125 (12), "Notwithstanding any other provision of law, participating and certified candidates shall report any money collected, all campaign expenditures, obligations and related activities to the commission according to procedures developed by the commission. Upon the filing of a final report ...for all general elections that candidate shall return all unspent fund revenues to the commission."

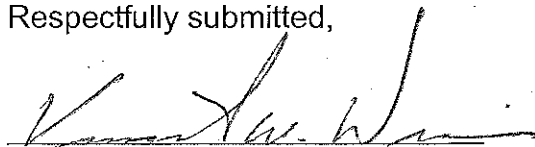
Recommendations: The Commission staff recommends that the Commission consider the following alternatives:

- e. Exhibit II shows a balance adjusted for unreimbursed expenditures of \$2,396.53. If the Commission determines that the referenced expenditures were not made by the candidate for the purposes of her campaign, then the staff recommends that the Commission direct Ms. Hatch to return the adjusted bank balance of \$ 2,396.53. In addition, the Commission should consider assessing penalties for false reporting and mis-use of public funds.
- f. If, on the other hand, the Commission concludes that the questioned expenditures listed in the exhibit were legitimately made by the candidate, then the staff recommends that the Commission take no further action on the finding and permit the candidate to use the adjusted bank balance of \$ 2,396.53 to reimburse herself for campaign expenditures she made from her personal funds.

Candidate's Comments

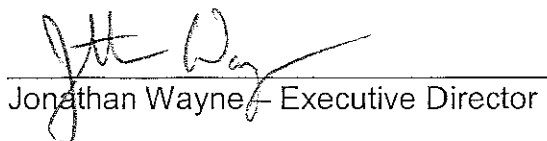
Ms. Hatch's comments on the audit findings and recommendations are attached.

Respectfully submitted,



Vincent W. Dinan - Staff Auditor

Approved:



Jonathan Wayne - Executive Director

AUDIT OF 2006 CAMPAIGN FINANCE REPORTS

CANDIDATE: PAMELA H. HATCH

HOUSE DISTRICT: 85

MODE OF CAMPAIGN FINANCING: MCEA

FINDINGS

TRANSACTIONS	DATE	AMOUNT
Undocumented Seed Money Expenditures		
Postmaster 04976	1/9/2006	\$102.00
Staples	1/30/2006	\$69.36
WalMart 04976	3/15/2006	\$28.29
Total		\$199.65
Missing Payment Documentation		
Postmaster 04976	5/29/2006	\$78.00
Completely Undocumented Expenditures		
Postmaster 04976	10/31/2006	\$585.00
Postmaster 04976	11/2/2006	\$480.00
Staples	10/31/2006	\$457.63
Staples	11/5/2006	\$357.35
Total		\$1,879.98

RECONCILIATION OF UNREIMBURSED EXPENSES WITH ENDING BANK BALANCE

Ending Bank Balance	12/31/2006	\$4,461.21
Less:		
Unreimbursed TRV Expense		(\$92.52)
Non-MCEA Funds		(\$35.91)
Subtotal		\$4,332.78
Less:		
The Copy Center (reported as Maine Street Solutions)	10/31/2006	(\$1,936.25)
Unreconciled Campaign Bank Balance		\$2,396.53

AUDIT OF 2006 CAMPAIGN FINANCE REPORTS

CANDIDATE: PAMELA H. HATCH

HOUSE DISTRICT: 85

MODE OF CAMPAIGN FINANCING: MCEA

RECONCILIATION OF UNREIMBURSED EXPENSES WITH ENDING BANK BALANCE

TRANSACTION	DATE	AMOUNT
Ending Bank Balance	12/31/2006	\$4,461.21
Less:		
Unreimbursed TRV Expense		(\$92.52)
Non-MCEA Funds		(\$35.91)
Subtotal		\$4,332.78
Less:		
The Copy Center (reported as Maine Street Solutions)	10/31/2006	(\$1,936.25)
Subtotal		\$2,396.53
OCTOBER 22, 2007 RECONCILIATION SUBMITTED BY PAMELA HATCH:		
Ending Bank Bal.	12/31/2006	\$4,461.21
Less:		
Unreimbursed Travel		(\$92.52)
Non-MCEA Funds in the Account		(\$35.91)
Unreimbursed "Copy Center" Invoice ##		(\$1,936.25)
Subtotal		\$2,396.53
Less: Reconciling but Undocumented items:		
Postmaster #	5/29/2006	(\$78.00)
Postmaster **	5/29/2006	(\$78.00)
Staples **	5/29/2006	(\$78.26)
Postmaster **	10/31/2006	(\$585.00)
Postmaster **	11/2/2006	(\$480.00)
Staples **	10/31/2006	(\$457.63)
Staples **	11/5/2006	(\$357.35)
Al's Pizza **	11/6/2006	(\$146.57)
Staples **	11/10/2006	(\$136.07)
Subtotal		(\$2,396.88)
Unreconciled Balance		(\$0.35)

NOTES:

Postal receipt; no campaign disbursement

** No proof of purchase or proof of payment

Unreimbursed payment to the "Copy Center", originally reported as payment to "Maine Street Solutions"; vendor invoice and cancelled check from personal (non-campaign) bank account on file.

11/26/07

Sent e-mail and regular mail

ATTACHMENT

Pamela H. Hatch
23 French Street
Skowhegan, Maine 04976-1614

Memo: On Audit Report No. 2006-HRO48 from Pamela H. Hatch
To: Executive Director Mr. Wayne, Mr. Dinan and MCEA Commission Members

Finding No. 1

The sum of \$200.00 dollars was a contribution from my husband and me for seed money. Each of us contributed \$100.00 to be used to do a mailing and collect the required number of five dollar contribution. I decided that I would not ask other people to donate because I didn't need to raise a huge amount of money as I had enough time to not only do the mailing but also do the follow-up phone calls and going to peoples homes to pick up the contributions. The mailing was a common practice. All the expenses were paid in cash and I did not open the bank account until I had qualified as a MCEA candidate.

The other findings in the report were for undocumented items that were purchased and used for my campaign. These included printing, mailings, supplies and to feed my campaign help in the final days of the campaign. I had the receipts and reported the amounts in the reporting periods of 2006. During the campaign I used our personal funds at times to purchase items knowing I would be reimbursed.

To try and find all the information I wrote, called and talked to vendors and tried to get copies of statements. I was successful with some but others I was told the receipt I received at point of purchase was it. My daughter and I have spent many, many days over the last several months going thru every room and box in our house to try to find the missing information (not an easy task as we have lived here for better than 25 years). We had little success.